

ADMINISTRATIVE REGULATION THE MINGER ACT

ACTION
Agenda Item F-4
September 18, 2000

Recommendation:

That the Council approve 13 KAR 2:100. The Campus Security Act. and 13 KAR 1:030. The Campus Security Act. The Council staff will report on any changes in the proposed administrative regulation after a public hearing and review.

Rationale:

- The Minger Act, adopted by the 2000 General Assembly and in effect since July, requires public and private postsecondary education institutions to report on crime, to make those reports available to the public within 24 hours, and to file an annual report to the Council on crime.
- The Council staff filed two emergency administrative regulations to comply with the time requirements of the law. The filing of these ordinary administrative regulations must accompany the filing of the emergency administrative regulations.

Background:

The Minger Act was adopted by the 2000 General Assembly in response to the death of a student, Michael Minger, in a fire at Murray State University. The act requires all postsecondary education institutions, public and private, to:

- Maintain a daily crime log.
- Report all fires and threats of fire to the state fire marshal.
- Make information from the daily crime log available to the public within 24 hours.
- File an annual report with the Council.

The Council staff has been working with the chiefs of police of the state-supported colleges and universities and with the Association of Independent Kentucky Colleges and Universities (AIKCU) to develop the emergency administrative regulations.

To comply with the statutory effective date of The Minger Act, the Council staff filed two emergency administrative regulations, one for the state-supported postsecondary education institutions and one for the independent colleges and universities licensed by the Council on Postsecondary Education.

The emergency administrative regulations are effective for 170 days. The action recommended is the filing of two ordinary administrative regulations to replace the emergency administrative regulations filed in August.

Staff Preparation by Dennis L. Taulbee

1 COUNCIL ON POSTSECONDARY EDUCATION

2 (Emergency)

3 **13 KAR 1:030. Campus Security.**

4 RELATES TO: KRS 164.945 to 164.947; KRS 227.200; KRS 227.230

5 STATUTORY AUTHORITY: KRS 164.020(28); 2000 (REGULAR SESS.) Ky. Acts Ch.
6 190, p. 478.

7 NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, 2000
8 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, requires public postsecondary education institu-
9 tions and those private postsecondary education institutions licensed by the Council on Post-
10 secondary Education to report campus crimes to the students and the public and to report annu-
11 ally to the Council on Postsecondary Education. The Council has responsibility for developing
12 formats for reporting and for ensuring that annual reports are received from the institutions. The
13 state fire marshal is granted access to the property of an institution that is covered by this act for
14 the purpose of inspection, investigation, or any other action necessary to prevent fire loss or to
15 determine the origin of any fire. This administrative regulation addresses the responsibilities of
16 private postsecondary education institutions licensed by the Council on Postsecondary Educa-
17 tion.

18 Section 1. Definitions. (1) “Annual report” means the report submitted by an institution to the
19 Council that satisfies the requirements of 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478,
20 Section 5.

(2)“Campus” is defined in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 1.

(3) “Campus Crime Log” means the daily log maintained by an institution and developed by the Council consistent with the provisions of 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 2.

(4) “Campus Security Authority” is defined in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 5.

(5) “Council” means the Council on Postsecondary Education as established by KRS 164.011.

(6) “Crime is defined in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 1(3).

(7) “Fire marshal” means the state fire marshal as described in KRS Chapter 227.

(8) “Institution” means a private postsecondary education institution as defined in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 1(4).

Section 2. Property included under the term campus. (1) An institution shall, consistent with the provisions of 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 1(1), establish a list of all property:

(a) owned;

(b) managed; or

(c) controlled by an institution.

(2) (a) All property on the list shall be classified by one of the categories listed in subsection (1) of this Section.

(b) The list shall be updated as necessary but not less than annually.

(3) Property controlled by an institution as set forth in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 1(1) includes real property owned by groups that are:

(a) officially recognized by an institution; and

(b) for which the institution exercises some administrative control.

(4) The list described in this Section shall be available to the Council on Postsecondary Education, if requested.

Section 3. Release of information to the public. (1) In satisfying the provisions of 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 2(1)(b), an institution shall develop and maintain a written policy that sets forth the general conditions under which that institution may withhold information on an incident.

(2) The written policy shall be:

(a) subject to the limitations established in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 2(1)(b)1. and 2.; and

(b) designed to ensure that information is available to the public as soon as possible.

(3)(a) An institution may archive campus crime log information after sixty (60) days have elapsed.

(b) An institution that elects to archive campus crime log information as described in paragraph (a) of this subsection, shall have two (2) business days to respond to information requests for material that has been archived.

Section 4. Special Reports. An institution shall report, in writing, to the Council on how it shall comply with the provisions of 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 2(2).

Section 5. Campus Crime Log. (1) An institution shall maintain a campus crime log as required by 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 2.

(2) Information contained in the campus crime log shall include all data elements contained in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 2(1).

Section 6. Crime. The meaning of a crime listed in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 1(3) shall be consistent with the Kentucky Revised Statutes and the definitions used in the Uniform Crime Reporting System of the federal government.

Section 7. State Fire Marshal and threat of fire. (1) A threat of fire includes:

(a) all fire alarms except as provided in subsection (2) of this Section; and

(b) an expression of an intention by a person or group of persons to inflict something harmful in the way of destructive burning or explosion.

(2) However, a threat of fire does not include an alarm triggered for the purpose of maintenance testing.

(3)(a) A threat or actual alarm shall be reported immediately to the State Fire Marshal and the local fire department except as provided in paragraph (b) of this subsection.

(b) However, an institution that has a university fire marshal and a written agreement with the State Fire Marshal's Office may inform the university fire marshal.

(4) An agreement between a local fire department and an institution for responses to a fire alarm shall be in writing.

Section 8. Annual Report. (1) The annual report filed by an institution as set forth in 2000 (REGULAR SESS.) Ky. Acts Ch. 190, p. 478, Section 4 shall be titled *The Campus Security Act Report for ((DATE))*.

(2) The heading for the annual report shall include:

(a) the name of the institution;

(b)1. the title of the report as set forth in subsection (1) of this Section; and

2. the calendar year for the report following the word for.

(3) The body of the report shall include these sections organized as set forth in this subsection:

(a) Section 1 shall be titled *Section 1: Campus Security Authority* and shall include:

1. a list of all personnel that meet the definition of Section 1(4) of this administrative regulation;

2. a description of the extent and nature of the enforcement authority of campus security authority personnel; and

3. the working relationship of campus security authority personnel with state and local police agencies.

(b) Section 2 shall be titled *Section 2: Description of Information Programs* and shall include:

1. A description of programs that inform students and employees about:

a. campus safety and security;

b. how to report crimes; and

c. how to prevent crimes.

(c) Section 3 shall be titled *Campus Crime Statistics for((DATE))* and shall include:

1. the calendar year of the report after the word for; and

2. the tables as follow:

(((INSTITUTION NAME)))

**Federal Campus Security and Campus Crime Statistics Disclosure (Clery) Act
& Michael Minger Act**

Crime Category (1)	Campus Property (2)	Criminal Attempt (3)	Campus Residential Facility (4)	Non- Campus Property (5)	Public Property (6)
Arson					
Assault					
Burglary					
Criminal Damage					
Hate Crime (7)					
Bias – Race					
Bias – Gender					
Bias – Religion					
Bias – Sexual Orientation					
Bias – Ethnic					
Bias – Disability					
Manslaughter					
Menacing					
Motor Vehicle Theft					
Murder					
Reckless Homicide					
Robbery					
Sex Offenses – Forcible					
Sex Offenses – Non-forcible					
Stalking					
Terroristic Threatening					
Theft					
Wanton Endangerment					
Weapons Possession					

Notes for Preceding Chart

1. These are the crime categories as required by the Federal and State Statute. Those crime categories listed in bold print are specific to the Minger Act while both statutes require all others.
2. On-campus property includes all property owned by the institution and any reports taken by institution law enforcement officers on adjacent streets.
3. Any attempt to commit the crimes listed in column one.
4. Number of crimes that occurred in institution residence halls, student apartment housing, or Greek sponsored housing facilities, if appropriate. These numbers are included in the on-campus property totals.

5. Non-Campus Property. These are any of the officially recognized/owned/leased/controlled institution properties that are located off the main campus area.
6. Public property within the same reasonably contiguous geographic area of the institution (sidewalk, street, other thoroughfare or parking facility) and adjacent to a facility owned or controlled by the institution. These crime statistics are those reported to/by the (((INSERT LOCAL LAW ENFORCEMENT AUTHORITY HERE))), the law enforcement agency with primary jurisdiction of that area.
7. Hate Crimes – These are crimes that fall into one of the reportable categories as required by the Statute, or other crimes in which the victim was intentionally selected because of an actual or perceived prejudice.

Selected Arrest Statistics

Crime Category	(Year of Report)
Alcohol Related	
Drug Related	
Weapon Possession	

Reported Crimes – Prior Reporting Periods

Crime Category	(Third prior year)	(Second prior year)	(First prior year)
Arson			
Assault			
Burglary			
Criminal Damage			
Hate Crime (7)			
Bias – Race			
Bias – Gender			
Bias – Religion			
Bias – Sexual Orientation			
Bias – Ethnic			
Bias – Disability			
Manslaughter			
Menacing			
Motor Vehicle Theft			
Murder			
Reckless Homicide			
Robbery			
Sex Offenses – Forcible			
Sex Offenses – Non-forcible			
Stalking			

Terroristic Threatening			
Theft			
Wanton Endangerment			
Weapons Possession			

Selected Arrest Statistics - Prior Reporting Periods

Crime Category	(Third prior year)	(Second prior year)	(First prior year)
Alcohol Related			
Drug Related			
Weapon Possession			

Selected Referrals / Incidents Reported by Campus Security Authorities *

Crime Category	(Year of Report)
Alcohol Violations	
Arson	
Assault	
Burglary	
Criminal Attempt	
Criminal Damage	
Drug Violations	
Hate Crime (7)	
Bias – Race	
Bias – Gender	
Bias – Religion	
Bias – Sexual Orientation	
Bias – Ethnic	
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Manslaughter	
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Wanton Endangerment	
Weapons Possession	

These crime statistics are provided in compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 and the Kentucky Postsecondary Education Campus Security Act of 2000. If you have any questions, contact (((insert contact information))), at (((insert contact phone number))).

- 1 (4) The calendar year for the annual report shall be the calendar year previous to the year in
- 2 which the report is filed.

Charles Whitehead
Chair
Council on Postsecondary Education

Date

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15 determine the origin of any fire. This administrative regulation addresses the responsibilities of
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